

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:  
Petitions of SmartEdgeNet, LLC and  
Millicorp, LLC for Limited Waiver of  
Section 52.15(g)(2)(i) of the  
Commission's Rules Regarding  
Numbering Resources

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CC Docket No. 99-200

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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The California Public Utilities Commission and the People of the State of California and (CPUC or California) submit these comments in response to the Public Notice (Notice) released April 24, 2012, by the Federal Communications Commission (FCC or Commission).<sup>1</sup> In the Notice, the Wireline Competition Bureau seeks comments on whether the FCC should grant a limited waiver of section 52.15(g)(2)(i) of the Commission's rules to allow the petitioning Voice over Internet Protocol (VoIP) service providers, SmartEdgeNet, LLC and Millicorp, LLC, direct access to numbering resources from the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator (PA).

## **SUMMARY**

California here repeats comments submitted to the FCC on January 25, 2012, in response to a FCC request for commenters to refresh the record on a March 4, 2005 request for waiver by Vonage Holdings Corp.<sup>2</sup> In those January 25<sup>th</sup> comments, the CPUC observed that inserting a service using a new technology into a structure designed for legacy communications technology will

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<sup>1</sup> Wireline Competition Bureau Seeks Comment on SmartEdgeNet, LLC and Millicorp, LLC Petitions for Limited Waiver of Commission's Rules Regarding Access to Telephone Numbers, CC Docket No. 99-200, DA 12-633, Released April 24, 2012.

<sup>2</sup> Comments of the California Public Utilities Commission and the People of the State of California, CC Docket No. 99-200, January 25, 2012.

exacerbate the inefficiencies of the current numbering system. The CPUC views the FCC's consideration of allowing VoIP providers direct access to numbers as an opportunity, at least in part, to eliminate a structure which, over time, has come to render number utilization today far less efficient than it was when the FCC adopted new numbering resources utilization (numbering) rules in 2000. Indeed, the numbering system still in use today is becoming more and more outdated, and it is time for the FCC to develop new rules that would benefit consumers and promote more efficient use of numbers.

## **BACKGROUND**

SmartEdgeNet, LLC and Millicorp, LLC, both Voice over Internet Protocol (VoIP) service providers, have petitioned the Commission for a waiver of the FCC's numbering rules to allow VoIP providers direct access to numbering resources. Currently non-facilities-based VoIP providers obtain telephone numbers through certificated telecommunications service providers. To date, the FCC has granted just one VoIP service provider, AT&T Internet Services (AT&T-IS), direct access to numbering resources.

## DISCUSSION

As discussed in our January 25, 2012, comments, California is concerned that the uncertain regulatory status of VoIP service providers would eliminate or severely constrain the CPUC's ability to ensure compliance with numbering rules and, instead, would lead to a increase in inefficient number use. Consistent with that concern, in our January 25<sup>th</sup> comments, California proposed a set of rule changes that would mitigate the impact of non-licensed providers drawing numbers directly from the NANPA. These proposed rule changes would be as follows:

1. That states be given the right to determine which rate centers are available to each VoIP service provider;
2. That VoIP service providers be required to have a minimum of 76% utilization before obtaining additional number resources;
3. That VoIP service providers be required to expand number porting beyond rate center boundaries; and
4. That all calls to VoIP service providers be deemed local.<sup>3</sup>

In a request for rulemaking filed with with comments to the FCC on March 30, 2012, the National Association of Regulatory Utility Commissioners

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<sup>3</sup> CPUC's Comments, January 25, 2012, pp. 8-10.

(NARUC), cited to California's experiences as support for the call to open a rulemaking.<sup>4</sup> NARUC further noted that the states have the responsibility to evaluate service provider utilization, and neither the PA nor the NANPA have the ability to monitor number utilization by unlicensed and non-certificated service providers.<sup>5</sup> NARUC went on to argue that the changes California recommended in our January 25<sup>th</sup> comments "clearly require a rulemaking" in lieu of piecemeal evaluation of individual petitions from one or more VoIP providers.<sup>6</sup>

California here reiterates the concern expressed in our January 25<sup>th</sup> comments that granting wholesale access to the numbering system without making concomitant adjustments for the transition to newer technologies using the numbering system already is accelerating number exhaust. The recent instance in Pennsylvania of one service provider pushing an area code into exhaust highlights the impact of just one service provider upon the numbering system. The Pennsylvania experience also throws into relief the important role

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<sup>4</sup> See NARUC Comments and Request for Rulemaking, filed March 30, 2012, p. 6.

<sup>5</sup> *Id.*, p. 4.

<sup>6</sup> *Id.*, p. 6.

of state regulators in ensuring that numbering rules are observed and numbers used as efficiently as the rules allow.<sup>7</sup>

In addition, in its April 2012 NANP Exhaust Analysis, the NANPA, while not changing its NANP exhaust analysis of after year 2042, cited increasing demand for codes in the years 2010 and 2011<sup>8</sup>. California has more area codes than any state in the nation – now 27. In the late 1990’s and early 2000’s, the CPUC was at the forefront in successful efforts to persuade the FCC to adopt rules that would slow the rate at which carriers were drawing numbers and prompting the introduction of dozens of new area codes nationwide. The FCC responded to state efforts by issuing several decisions in CC Docket 99-200, which established categories of numbers, number utilization thresholds, sequential number use, and number pools. All of those efforts bore fruit, with many states able to slow the draw on numbers and the need for new area codes.

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<sup>7</sup> In 2009, Pennsylvania Public Utilities Commission (PAPUC) ordered a geographic split of the 814 area code. The need for relief was caused, in large part, by one carrier seeking codes in many non-pooling rate centers throughout the 814 area code. Subsequently, the PAPUC ordered mandatory pooling throughout the 814, and PAPUC staff closely monitored carrier numbering requests and usage data. Those efforts, combined with a general downturn in demand have worked to extend the life of the area code to 2Q 2018. As a result, the PAPUC, on April 26, 2012, rescinded the geographic split order and dismissed the petition for area code relief. (Docket P-2009-2112925).

<sup>8</sup> North American Numbering Plan Administrator, April 2012 NANP Exhaust Analysis. [http://www.nationalnanpa.com/pdf/NRUF/April\\_2012\\_NANP\\_Exhaust\\_Analysis.pdf](http://www.nationalnanpa.com/pdf/NRUF/April_2012_NANP_Exhaust_Analysis.pdf)

The industry, the states, and the FCC are now at another watershed moment. California is greatly concerned that, for structural reasons, i.e., reasons unrelated to increased customer activity, the demand for NXX codes is being exacerbated by service providers unfettered by market conditions in the geographic areas where they seek to acquire numbering resources.

It seems necessary, once again, to state the obvious – telephone numbers generally and area codes in particular are finite resources. Once we have used up all 670<sup>9</sup> available area codes, the FCC will be forced to order an expansion of the NANP from its current 10-digits to a 12-digit or greater numbering pattern. That effort will cost the U.S. economy hundreds of billions of dollars, as the FCC noted in its initial order in this docket.<sup>10</sup> As of April 31, 2012, 361 area codes have been assigned, which is more than half of the total quantity of area codes in the NANP. The demand for entire new codes in rate centers where there are more than ten blocks already available will do nothing but accelerate the demand for codes and in turn will drive a resurgent need for new area codes.

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<sup>9</sup> North American Numbering Plan Administrator, April 2012 NANP Exhaust Analysis. [http://www.nationalnanpa.com/pdf/NRUF/April\\_2012\\_NANP\\_Exhaust\\_Analysis.pdf](http://www.nationalnanpa.com/pdf/NRUF/April_2012_NANP_Exhaust_Analysis.pdf).

<sup>10</sup> “The cost of expanding the current NANP is anticipated to be enormous,<sup>10</sup> and could take as long as ten years to design and implement.<sup>10</sup> These estimated costs are substantial, and would, we believe, significantly outweigh the cost of implementing all of the numbering resource optimization solutions adopted in this *Report and Order*.” FCC 00-104, *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, para. 6.

## CONCLUSION

The experience in Pennsylvania and NARUC's request for rulemaking serve to reinforce California's concerns about the exaggerated impact of new technology service providers on the numbering system, and the projected NANP exhaust at some time beyond 2042.<sup>11</sup> Since VoIP providers do not depend on the legacy geographic basis for number assignment, the CPUC sees the potential for allowing VoIP providers access to the NANP as an opportunity to not only eliminate a structure which makes number utilization inefficient, but also to lessen the impact of code assignment in areas where there are no likely end users for those codes.

Finally, California supports NARUC's call for a rulemaking to address changes to the FCC's numbering rules that the CPUC recommended in comments filed in this docket on January 25, 2012, and repeat our call for rule changes that would be responsive to the flexibility of new technologies.

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<sup>11</sup> North American Numbering Plan Administrator, April 2012 NANP Exhaust Analysis. [http://www.nationalnanpa.com/pdf/NRUF/April\\_2012\\_NANP\\_Exhaust\\_Analysis.pdf](http://www.nationalnanpa.com/pdf/NRUF/April_2012_NANP_Exhaust_Analysis.pdf)



Respectfully submitted,

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